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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,592	03/12/2004	Aliza Freud	60655.7000	2591
66170	7590	05/27/2010		
Snell & Wilmer L.L.P. (AMEX) ONE ARIZONA CENTER 400 E. VAN BUREN STREET PHOENIX, AZ 85004-2202			EXAMINER POE, KEVIN T	
			ART UNIT 3693	PAPER NUMBER
			NOTIFICATION DATE 05/27/2010	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/708,592	<b>Applicant(s)</b> FREUD ET AL.	
	<b>Examiner</b> KEVIN POE	<b>Art Unit</b> 3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,4,6,7,12-14 and 17-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4,6,7,12-14 and 17-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This office action is in response to applicant's communication of March 17, 2010. Claims 1, 4, 6-7, 12-14, and 17-23 are pending and have been examined. The rejections are stated below.

#### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/17/2010 has been entered.

#### ***Response to Amendment***

3. Applicant has amended claims 1, 4, 6-7, and 12-14. Claims 17-23 have been added as new claims.

#### ***Response to Arguments***

4. Applicant's arguments with respect to rejected claims have been considered but are moot in view of new ground(s) of rejection.

***Claim Objections***

5. Claim 1 recites "releasing form the pending status". Examiner interprets this as a typographical error. For the purposes of examination, the phrase will be interpreted as "releasing from the pending status".

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1, 4, 6-7, 12-14, and 17-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

8. Claim 1 recites "requesting, by the computer a new bid for the second auction item, in response to the rewards account balance being insufficient". This limitation is vague and indefinite. It is unclear as to how this step is carried out. Does the computer submit the request to a user? Please clarify. Dependent claims 4, 6-7, 12-14, and 17-21 are rejected on the same grounds based on their dependence to claim 1.

9. Claim 1 recites "requesting, by the computer a new bid for the second auction item, in response to the rewards account balance being insufficient". There is lack of antecedent basis for the computer.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims **1, 4, 6-7, 13, 17-19, 21, and 22-23** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Understein [US Pub No. 2003/0225678 A1]** in view of **Arkes [US Pub No. 2007/0118461 A1]**.

12. Regarding **claims 1 and 22-23**, Understein discloses a method, computer program, and system (Abstract, 0005, 0017-0018) comprising: receiving, by the computer based system, [[an]] a first bid on a first auction item being auctioned within the auction system (bid, Abstract, 0009) confirming, by the computer based system, the rewards account balance is sufficient to cover the first bid (balance, 0025, 0042); allocating, by the computer based system, a first portion of the rewards account balance to the first bid (bid hold, 0009); reserving to a pending status, by the computer based system, the first portion of the rewards account balance such that the first portion is unavailable in the rewards account balance (hold on bidder funding account, 0009); monitoring, by the computer based system, the first bid (monitor, 0045); determining, by

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the computer based system, if the first bid is accepted (0006); releasing form the pending status, by the computer based system, the first portion of the rewards account balance, in response to the first bid not being accepted (released, Abstract, 0009, 0046); receiving, by the computer based system, a second bid on a second auction item being auction within the auction system, wherein the second bid is associated with the rewards account (allowing the bidder the ability to bid on multiple auctions requiring deposit holds simultaneously up to the available balance of the bidder funding account, 0009), determining, by the computer based system, if the rewards account balance is sufficient to cover the second bid (bidder's deposit holds cannot exceed a balance in the bidder's bidder funding account, 0009); placing, by the computer based system, the second bid for the second auction item, in response to the rewards account balance being sufficient (allowing the bidder the ability to bid on multiple auctions requiring deposit holds simultaneously up to the available balance of the bidder funding account, 0009); and requesting, by the computer a new bid for the second auction item, in response to the rewards account balance being insufficient (sufficient, 0052).

Understein does not explicitly disclose wherein the first bid is associated with a rewards account, wherein the rewards account has a rewards account balance, wherein the rewards account was registered with the auction system, and wherein the auction system manages a plurality of auctions. However Arkes teaches an incentive points based auction presented that is based upon an on-line system including a catalog of potential auction items and a database of participants that are eligible to take part in the auction and the participants' associated eligible points. The method includes

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designating a set of auction items from the catalog of potential auction items.

Thereafter, participants submit bids via on-line access for the set of auction items (Abstract, all auctions, Figure 1, 0024). At the time of the invention it would have been obvious to modify the disclosure of Understein to include the teachings of Arkes to obtain invention specified. The rationale to combine the teachings would be an improved incentive based auction system.

9. Regarding **claim 4**, Understein discloses querying, by the computer based system, the auction system to verify that the auction system accepts the rewards account for payment during participation in the auction; transmitting, by the computer based system, the account data to the auction system (0052).

11. Regarding **claim 6**, Understein discloses: presenting, by the computer based system, a webpage of an auction site having one or more ongoing auctions for selection (0005, 0009, 0014, 0042); receiving, by the computer based system, a selection for at least one of a first auction item and a second auction item (0005, 0009, 0014, 0042); receiving, by the computer based system, an amount of rewards from the rewards account to bid on at least one of the first auction item and the second auction item; and transmitting, by the computer based system the amount to post at least one of the first bid and the second bid to a bid on the auction site (0005, 0009, 0014, 0042).

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12. Regarding **claim 7**, Understein disclose querying, by the computer based system, the auction system to verify that the first bid exceeds the amount of any previous bid for the first auction item; querying, by the computer based system, the auction system to verify that the first bid exceeds any minimum bid amount set for at the first auction item; and transmitting, by the computer based system, the first bid to the auction system (0009, 0014, 0042).

13. Regarding **claim 13**, Understein does not disclose providing reward account details and account history data, wherein [[said]] the account history data includes at least one of dates and descriptions of items bid on, winning bid amounts, and current bid status. However Arkes teaches providing reward account details and account history data, wherein [[said]] the account history data includes at least one of dates and descriptions of items bid on, winning bid amounts, and current bid status (0068). At the time of the invention it would have been obvious to modify the disclosure of Understein to include the teachings of Arkes to obtain invention specified. The rationale to combine the teachings would be an improved incentive based auction system.

14. Regarding **claim 17**, Understein discloses wherein the rewards account is associated with a transaction account (0009).



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15. Regarding **claim 18**, Understein does not disclose wherein the rewards account has a point value which is converted to a monetary value in response to registering the rewards account with the auction system. However Arkes teaches wherein the rewards account has a point value which is converted to a monetary value in response to registering the rewards account with the auction system (0006). At the time of the invention it would have been obvious to modify the disclosure of Understein to include the teachings of Arkes to obtain invention specified. The rationale to combine the teachings would be an improved incentive based auction system.

16. Regarding **claim 19**, Understein does not disclose wherein the rewards account has a point value which is converted to a monetary value in response to registering the rewards account with the auction system, wherein the auction system is a third party system operated independently from the computer based system. However Arkes teaches wherein the rewards account has a point value which is converted to a monetary value in response to registering the rewards account with the auction system, wherein the auction system is a third party system operated independently from the computer based system. (0006). At the time of the invention it would have been obvious to modify the disclosure of Understein to include the teachings of Arkes to obtain invention specified. The rationale to combine the teachings would be an improved incentive based auction system.

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17. Regarding **claim 21**, Understein discloses wherein the auction system is operated independently from the computer based system (0009).

18. Claims **12 and 20** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Understein [US Pub No. 2003/0225678 A1]** in view of **Arkes [US Pub No. 2007/0118461 A1]** and further in view of **Iannacci [US Pub No. 2002/0062249 A1]**.

19. Regarding **claim 12**, Understein does not disclose debiting, by the computer based system, [[the]] a winning bid amount from the rewards account; and transmitting, by the computer based system, a credit based on the winning bid amount to a merchant who sold the auction item. However Iannacci discloses debiting, by the computer based system, [[the]] a winning bid amount from the rewards account; and transmitting, by the computer based system, a credit based on the winning bid amount to a merchant who sold the auction item (0241). At the time of the invention it would have been obvious to one of ordinary skill in the art to modify the disclosure of Understein to include the teachings of Iannacci to obtain invention as specified. The rationale to combine the teachings would be an on-line, interactive, and fully integrated benefit-driven value exchange and settlement program that monitors, evaluates, and manages economic and personal benefits and executes functions to produce and acquire the maximum or preferred benefit items for users by guiding and automating appropriate payment and settlement actions.

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20. Regarding **claim 20**, Understein discloses wherein the credit is a monetary value transmitted to the merchant (0011).

21. Claim **14** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Understein [US Pub No. 2003/0225678 A1]** in view of **Arkes [US Pub No. 2007/0118461 A1]** and further in view of **Mok et al. [US Pub No. 2004/0015394 A1]**.

22. Regarding **claim 14**, Understein does not explicitly disclose at least one of adding and removing reward accounts. However Mok et al. discloses in order to facilitate the administration of the reward program, the program administrator may also assign the customer a form of identification and then establish a reward account based on the identification assigned. [0023]

At the time of the invention it would have been obvious to one of ordinary skill in the art to modify the disclosure of Understein to include the teachings of Mok et al. to obtain invention as specified. The rationale to combine the teachings is this account will provide a place for the program administrator to automatically depositing rewards.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEVIN POE whose telephone number is (571)272-9789. The examiner can normally be reached on Monday through Friday 9:30am - 6:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JAMES KRAMER can be reached on 571-272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ktp

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Primary Examiner, Art Unit 3693

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